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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,195	07/22/2005	Dieter Teppke	U198US(PCT)	5501

20469 7590 04/18/2007
KOHLER SCHMID MOEBUS
RUPPMANNSTRASSE 27
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GERMANY

EXAMINER

YOO, REGINA M

ART UNIT	PAPER NUMBER
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1744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	04/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/543,195	TEPPKE, DIETER	
	Examiner	Art Unit	
	Regina Yoo	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 22-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 22-33, drawn to a method for disinfecting a microtome cryostat.

Group II, claim(s) 34-43, drawn to a device for disinfecting a microtome cryostat.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The corresponding special technical feature of Groups I and II is a device and a method for:

- (a) subjecting a closed cryostat to a defrosting phase;
- (b) introducing a vaporous disinfectant into the closed cryostat chamber;
- (c) waiting an effective time for action of the disinfectant;
- (d) generating a temperature difference in the cryostat chamber; and
- (e) discharging disinfectant deposited in a colder region of the cryostat.

Childers (5837193) discloses a device and a method for decontamination comprising:

(a) subjecting a closed cryostat to a defrosting phase (see entire document, particularly Col. 3, lines 4-6 and Col. 5, lines 28-45);

(b) introducing a vaporous disinfectant into the closed cryostat chamber (see entire document, particularly Col. 3, lines 11-13, Col. 5, line 5, and Col. 7, lines 36-37);

(c) waiting an effective time for action of the disinfectant (see entire document, particularly Col. 3, lines 1-3 and Col. 7, lines 41-45);

(d) generating a temperature difference in the cryostat chamber (see entire document, particularly Col. 8, lines 55-56 and Col. 9, lines 1-4, and separate parts, such as the condenser, can be treated separately as seen in Col. 5, lines 14-15); and

(e) discharging disinfectant in the cryostat (see entire document, particularly Col. 3, lines 36-38 and Col. 8, lines 47-48).

While Childers ('193) does not specifically teach that the sterilant is discharged from a colder region of the device being decontaminated, it is known in the art (particularly in sterilization method that uses a vapor phase hydrogen peroxide), as exemplified by Cummings (4952370), to discharge the sterilant from a colder portions of the surfaces of the device being decontaminated (see entire '370 document, particularly Col. 6, lines 63-68, specifically line 66) in order to perform sterilization without having to elevate temperature from a colder portion of the equipment which possesses multiple temperature zones (see entire '370 document, particularly Col. 1, lines 25-30, Col. 2, lines 13-38). Thus, it would have been obvious to one of ordinary skill in this art at the time of invention to discharge the hydrogen peroxide sterilant from a colder region of the device and method of Childers in order to perform sterilization without altering

temperatures within the entire device to one elevated temperature as shown by Cummings.

As all the limitations of the corresponding special technical feature are taught by Childers in view of Cummings, the corresponding special technical feature does not make a contribution over the prior art and thus the groups of applicant's inventions lacks a single general inventive concept. Therefore, there is a lack of unity of inventions.

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.


Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Yoo whose telephone number is 571-272-6690. The examiner can normally be reached on Monday-Friday, 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RY



GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER